

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

SEAN COOK; JOSEPH HIGGS,

Case No. 3:23-cv-05657-TMC

Plaintiff,

## ORDER DISMISSING CLAIMS FOR LACK OF SERVICE OF PROCESS

V.

UNITED STATES OF AMERICA:

DONALD WALKINSHAW; JOHN POUND,

Defendant.

## I. ORDER

This matter comes before the Court on its own motion. On April 23, 2024, the Court granted Defendant United States of America’s motion to dismiss, dismissed Plaintiffs Sean Cook and Joseph Higgs’ claims against it with prejudice, and denied Plaintiffs’ request for leave to amend their complaint. Dkt. 19. The Court also noted that there was no indication on the docket that Plaintiffs had ever served individual Defendants Donald Walkinshaw and John Pound. *Id.* at 10. Federal Rule of Civil Procedure 4(m) requires courts to dismiss a complaint without prejudice if defendants are not served within 90 days of its filing. However, the Rule also requires courts to first provide plaintiffs with notice and an opportunity to show good cause for their failure to timely effectuate service before dismissing the complaint. *See id.; Crowley v.*

1 *Bannister*, 734 F.3d 967, 975 (9th Cir. 2013). Accordingly, the Court ordered Plaintiffs to “show  
2 cause within twenty-one days why their claims against individual defendants should not be  
3 dismissed without prejudice for lack of service pursuant to Rule 4(m).” Dkt. 19 at 10.

4 Twenty-one days has passed, and Plaintiffs have not responded to the show cause order.  
5 Accordingly, the Court DISMISSES Plaintiffs’ claims against Walkinshaw and Pound  
6 WITHOUT PREJUDICE. Since all claims have been dismissed, this case is now closed.

7 Dated this 17th day of May, 2024.

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10 Tiffany M. Cartwright  
11 United States District Judge